

## Tyler, Kendra

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**From:** Tyler, Kendra  
**Sent:** Wednesday, September 09, 2015 11:08 AM  
**To:** Sheldrake, Beth  
**Subject:** RE: Lepic FOIA (deliberative) RTOC Topic Form - Lee Juan Tyler

Thanks Beth, I will give it to him now!

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**From:** Sheldrake, Beth  
**Sent:** Tuesday, September 08, 2015 5:32 PM  
**To:** Tyler, Kendra  
**Cc:** McDonnell, Kimberlee; Herbst, John; Jennings, Jannine; Albright, Rick  
**Subject:** FW: Lepic FOIA (deliberative) RTOC Topic Form - Lee Juan Tyler

Hi, Kendra. JR suggested I send you this potential additional question (and suggested response) Dennis may get from Lee Juan Tyler of the Shoshone-Bannock Tribes at his Thursday meeting with RTOC representatives. The attached file contains the complete list of questions/responses Lee Juan submitted with this questions/response added.

Let me know if you have any questions.

Thanks!

Beth

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### **POTENTIAL QUESTION: Eastern Michaud Flats Superfund Site - Five Year Review**

1. EPA Region 10 recently sent a draft Five Year Review for the Eastern Michaud Flats Superfund Site to the Tribal staff for review. The document is to be signed by EPA this month without any consultation with the Fort Hall Business Council. This Superfund Site is located on our reservation and EPA should consult prior to making any decisions.

#### **Background**

By statute, EPA is required to conduct a review of Superfund remedies where waste is left in place a minimum of every 5 years following the initiation of remedial action. The first Five Year Review (FYR) for the Eastern Michaud Flats Superfund Site was due on July 1, 2015, five years after initiation of the groundwater remedy at the Simplot OU. FYRs not completed by the end of the fiscal year in which they are due are included in an annual report to Congress. FYRs are not considered remedy decision documents and the Superfund program generally does not formally consult with Tribes regarding the determinations made in FYRs.

Tribal staff have been involved throughout the development of the FYR including attending the site visits/inspections and have been provided a draft copy of the document for input. In addition, EPA met with the Land Use Commissioners and tribal staff for several hours to listen to their concerns regarding the progress of the remediation. Highlights from this meeting were included in the FYR.

Although not typically done, EPA offered to participate in a teleconference with Tribal policy makers to explain the purpose of the FYR and also EPA's determinations. No request for such a teleconference was received. EPA also offered to meet in person with policy makers, but due to timing, this meeting cannot occur until after the due date of September 30, 2015.

#### **EPA Response:**

EPA understands the Tribes' great interest in the Eastern Michaud Flats Superfund Site and in the determinations made in the draft Five Year Review. The Tribes actively participated in our Open House related to this Review at Fort Hall in March and in one-on-one interviews which informed the Review. EPA program staff have been in communication with and involved your staff throughout our process.

Upon delivery of the draft document to the Tribes in mid-August, EPA offered to participate in a conference call with policy makers to explain the purpose of and findings in the document, but no request was received from the Tribes. EPA also offered to arrange a face-to-face meeting to discuss the findings of the Review and upcoming work at the EMF Site at a time convenient to policy makers. Unfortunately, due to the statutory requirement to complete this by September 30, 2015, the face-to-face meeting could not be scheduled prior to that date. As I understand it, EPA is expecting written input from the Tribes on this draft document by the end of this week (September 11, 2015).

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**From:** Herbst, John  
**Sent:** Tuesday, September 08, 2015 5:10 PM  
**To:** Sheldrake, Beth  
**Cc:** McDonnell, Kimberlee  
**Subject:** RE: Lepic FOIA (deliberative) RTOC Topic Form - Lee Juan Tyler

Hello Beth,

Please send the additional update directly to Kendra. Thanks!

JR

JR Herbst  
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**From:** Sheldrake, Beth  
**Sent:** Tuesday, September 08, 2015 9:49 AM  
**To:** Herbst, John  
**Cc:** McDonnell, Kimberlee  
**Subject:** RE: Lepic FOIA (deliberative) RTOC Topic Form - Lee Juan Tyler

Sounds good, thanks JR.

We believe the Tribes may raise another issue in the meeting with Dennis related to the ongoing Five Year Review of the protectiveness of the cleanups at the Eastern Michaud Flats Superfund site. We are preparing a short write up on this issue. Should I send it to you for inclusion with this other material or directly to Kendra? I hope to have something in the next couple of hours. Sorry about this, but we just received an email from the Tribes this morning which made us think they may raise this additional issue.

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**Beth Sheldrake** | Unit Manager  
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**From:** Herbst, John  
**Sent:** Tuesday, September 08, 2015 9:46 AM  
**To:** Sheldrake, Beth  
**Cc:** Valdez, Heather  
**Subject:** RE: Lepic FOIA (deliberative) RTOC Topic Form - Lee Juan Tyler

Thanks for the suggested EPA response to Lee Juan's topic form. I'll make sure that this information is moved up to the RA's Office.

JR

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**From:** Sheldrake, Beth  
**Sent:** Friday, September 04, 2015 4:28 PM  
**To:** Herbst, John  
**Cc:** Valdez, Heather; Williams, Jonathan; Jennings, Jannine; Boyd, Andrew; Shirley, Joan; Kelly, Kate; Albright, Rick; Fleming, Sheila; Grandinetti, Cami; Dailey, Anne; Fonseca, Silvina; Ammon, Doug; McArthur, Lisa; Hastings, Janis  
**Subject:** Lepic FOIA (deliberative) RTOC Topic Form - Lee Juan Tyler

Hi, JR. Attached are suggested EPA responses for Dennis for the RTOC meeting next week related to Lee Juan's questions/concerns on the FMC site. This information came from both Superfund and RCRA.

Let me (for Superfund) or Heather Valdez (RCRA) know if you need anything else.

Thanks!!

Beth

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**Beth Sheldrake** | Unit Manager

**From:** Herbst, John  
**Sent:** Tuesday, September 01, 2015 4:41 PM  
**To:** Sheldrake, Beth  
**Subject:** RTOC Topic Form - Lee Juan Tyler

Hello Beth,

The RTOC will be holding their meeting next week here in Seattle (agenda attached). In preparation for the RTOC tribal rep. meeting with the RA on Thursday (9/10), attached is a RTOC Topic Form that we received today from Lee Juan Tyler (NTOC Rep.) regarding issues impacting the Shoshone-Bannock Tribes.

These RTOC topic forms are used to prepare the RA for his discussion with the tribal reps. Can you please provide EPA talking points that we can forward to the RA in response to the issues identified by Mr. Tyler?

Thanks!

JR

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